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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,186	04/18/2008	Paul Breedveld	6900-28 (191006)	7309
30448	7590	01/27/2012	EXAMINER	
AKERMAN SENTERFITT P.O. BOX 3188 WEST PALM BEACH, FL 33402-3188			HENDERSON, RYAN N	
			ART UNIT	PAPER NUMBER
			3779	
			NOTIFICATION DATE	DELIVERY MODE
			01/27/2012	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip@akerman.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/597,186	BREEDVELD ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	RYAN HENDERSON	3779	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10/20/11, Response to FAOM.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 5) ☒ Claim(s) 1-15 is/are pending in the application.
- 5a) Of the above claim(s) 6 and 10-15 is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1-5 and 7-9 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Notice of Amendment***

1. The Amendment filed 10/20/11 has been entered. Claims 1-15 are pending in the application with no claims amended and claims 6 and 10-15 are withdrawn. The previous 35 USC 112 rejection of claim 9 are withdrawn in light of Applicant's arguments.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 5, 8 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Boyd et al. (US Patent Application Publication No. 2008/0086854, hereinafter Boyd).

**In regard to claim 1**, Boyd discloses an instrument for high-precision or surgical applications of a minimally invasive nature, comprising:

a distally positioned directable head **(50)**,  
a shaft **(14)** upon which the head is positioned **(Fig. 4)**;  
and a proximal end equipped for operating the head **(38, Par. 102-104)**,  
wherein a ring of cables **(12)** comprising longitudinally extending cables connects  
to the head **(Fig. 4, Par. 104)**, which cables are fixedly secured in the radial direction  
**(the cables are confined by the shaft and therefore are fixedly secured in the  
radial direction, furthermore the cables are also fixedly secured in the radial  
direction at the point in which they attach to the head (50))**, and  
wherein each cable of the ring of cables is disposed such that at least a part of  
both sides is in direct contact with another cable of the ring of cables **(Figs. 3-4 show  
the cables contacting each other)**.

**In regard to claim 2**, Boyd wherein the ring of cables is designed for  
mechanically coupling the head to the handgrip **(the cables are connected to both the  
insertion device (38) and head (50))**.

**In regard to claim 3**, Boyd wherein the ends of at least some of the cables of the  
ring of cables possess a fastening to the head and to the proximal end **(Par. 104 for  
fastening to the head and Par. 102 for fastening to the insertion device (proximal  
end))**.

**In regard to claim 5**, Boyd teaches wherein the ring of cables is enclosed by an exterior spring lying against the cables of the ring of cables **(the compression member (14) acts as a spring)**.

**In regard to claims 8 and 9**, Boyd teaches wherein the ring of cables is provided at its interior side with a construction element that is selected from the group consisting of a bundle of glass fibers, a cable, power cables, a power cable surrounded by a ring of glass fibers, an optionally torsion-stiff tube or tubes, optionally with lateral scoring and optionally stranded, bellows, a stent and a spring as specified in WO 02/13682, wherein the construction element lies against the cables of the ring of cables **(the interior construction element is a cable (12))**.

4. Claims 1-3 and 7-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Kato et al. (US Patent No. 7,117,703, hereinafter Kato).

**In regard to claim 1**, Kato discloses an instrument for high-precision or surgical applications of a minimally invasive nature, comprising:

a distally positioned directable head **(Fig. 27, distal tip of the treating tool that the sheath is attached to)**,

a shaft **(42)** upon which the head is positioned **(Fig. 27)**;

and a proximal end equipped for operating the head **(40)**,

wherein a ring of cables (**#2, Fig. 6**) comprising longitudinally extending cables connects to the head (**Fig. 27**), which cables are fixedly secured in the radial direction (**the cables are fixedly secured to one another in the radial direction as seen in Figs. 6 and 27, Col. 6, Lines 4-25**), and

wherein each cable of the ring of cables is disposed such that at least a part of both sides is in direct contact with another cable of the ring of cables (**see Figs. 6 and 27**).

**In regard to claim 2**, Kato teaches wherein the ring of cables is designed for mechanically coupling the head to the handgrip (**Fig. 27**).

**In regard to claim 3**, Kato teaches wherein the ends of at least some of the cables of the ring of cables possess a fastening to the head and to the proximal end (**Fig. 27**).

**In regard to claims 8 and 9**, Kato teaches of the instrument according to claim 1, wherein the ring of cables is provided at its interior side with a construction element that is selected from the group consisting of a bundle of glass fibers, a cable, power cables, a power cable surrounded by a ring of glass fibers, an optionally torsion-stiff tube or tubes, optionally with lateral scoring and optionally stranded, bellows, a stent and a spring as specified in WO 02/13682, wherein the construction element lies against the cables of the ring of cables (**Kato teaches of the construction element**

**being cable (43), wherein the construction element would lie against the ring of cables when the instrument is bent).**

A second embodiment of Kato is being used to reject claims 1 and 7:

**In regard to claim 1**, Kato discloses an instrument for high-precision or surgical applications of a minimally invasive nature, comprising:

a distally positioned directable head **(6)**,

a shaft **(1)** upon which the head is positioned **(Fig. 3)**;

and a proximal end equipped for operating the head **(proximal portion of the guidewire can be held in order to manipulate the distal end)**,

wherein a ring of cables **(#2, Fig. 1)** comprising longitudinally extending cables connects to the head **(Fig. 3)**, which cables are fixedly secured in the radial direction **(the cables are fixedly secured to one another in the radial direction as seen in Figs. 1 and 3, Col. 6, Lines 4-25)**, and

wherein each cable of the ring of cables is disposed such that at least a part of both sides is in direct contact with another cable of the ring of cables **(see Figs. 1 and 3)**.

**In regard to claim 7**, Kato teaches wherein the ring of cables is provided at its interior side with an interior spring **(5)** lying against the cables of the ring of cables **(the**

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**flexible core (5) acts as a spring to elastically bias the guidewire in the straight configuration).**

5. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Sadowski (US Patent No. 3,590,232)

**In regard to claim 1**, Sadowski discloses an instrument for high-precision or surgical applications of a minimally invasive nature, comprising:

a distally positioned directable head **(19, the head is movable with respect to the rest of the instrument)**,

a shaft **(22)** upon which the head is positioned **(Fig. 3)**;

and a proximal end **(33)** equipped for operating the head **(Fig. 1)**,

wherein a ring of cables **(51)** comprising longitudinally extending cables connects to the head **(Fig. 4)**, which cables are fixedly secured in the radial direction **(see Figs. 4 and 9, they're secured by inner and outer rings (53, 54))**, and

wherein each cable of the ring of cables is disposed such that at least a part of both sides is in direct contact with another cable of the ring of cables **(Figs. 4, 8 and 9)**.



**In regard to claim 4**, Sadowski teaches wherein the fastening is embodied as an interior ring **(54)** and an exterior ring **(53)** which together delimit a slot for clampingly receiving the cables **(Figs. 4 and 9)**.

### ***Response to Arguments***

6. Applicant's arguments, see arguments, filed 10/20/11, with respect to the rejection(s) of claim(s) 1-4, 7 and 9 under Ohline have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Kato and Sadowski.

7. Applicant's arguments filed 10/20/11 have been fully considered but they are not persuasive with respect to claims 1 and 5 in view of Boyd.

8. Boyd teaches of the cables (12) being attached to the head (50) of a shaft (14) and operated by a proximal end (38). Support for this can be found in Par. 102-104. The cables are radially fixed at the distal end where they connect to the head as well as when they're confined within the shaft (14).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN HENDERSON whose telephone number is (571)270-1430. The examiner can normally be reached on M-F 7:30AM-5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kasztejna can be reached on (571)272-6086. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. H./  
Examiner, Art Unit 3779  
January 18, 2012

/MATTHEW J KASZTEJNA/  
Primary Examiner, Art Unit 3779